

House Engrossed

State of Arizona  
House of Representatives  
Forty-fifth Legislature  
Second Regular Session  
2002

CHAPTER 9  
**HOUSE BILL 2334**

AN ACT

AMENDING SECTION 33-405, ARIZONA REVISED STATUTES; RELATING TO CONVEYANCES  
AND DEEDS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 33-405, Arizona Revised Statutes, is amended to  
3 read:

4 33-405. Beneficiary deeds; recording; definitions

5 A. A deed that conveys an interest in real property, including any  
6 debt secured by a lien on real property, to a grantee BENEFICIARY designated  
7 by the owner and that expressly states that the deed is ~~not to take effect~~  
8 ~~until~~ EFFECTIVE ON the death of the owner transfers the interest to the  
9 designated grantee beneficiary effective on the death of the owner SUBJECT  
10 TO ALL CONVEYANCES, ASSIGNMENTS, CONTRACTS, MORTGAGES, DEEDS OF TRUST, LIENS,  
11 SECURITY PLEDGES AND OTHER ENCUMBRANCES MADE BY THE OWNER OR TO WHICH THE  
12 OWNER WAS SUBJECT DURING THE OWNER'S LIFETIME.

13 ~~B. The grantee may be a multiple grantee or a successor grantee, or~~  
14 ~~both. A multiple grantee may be a joint tenant A BENEFICIARY DEED MAY~~  
15 ~~DESIGNATE MULTIPLE GRANTEE WHO TAKE TITLE AS JOINT TENANTS with right of~~  
16 ~~survivorship, a tenant TENANTS in common, a holder of HUSBAND AND WIFE AS~~  
17 ~~community property or AS community property with right of survivorship, or~~  
18 ~~any other tenancy that is otherwise valid under the laws of this state.~~

19 C. A ~~grant to~~ BENEFICIARY DEED MAY DESIGNATE a successor grantee  
20 BENEFICIARY. IF THE BENEFICIARY DEED DESIGNATES A SUCCESSOR GRANTEE  
21 BENEFICIARY, THE DEED shall state the condition on which the interest of the  
22 successor grantee BENEFICIARY would vest.

23 ~~B.~~ D. If real property is owned as joint tenants with the right of  
24 survivorship or as community property with the right of survivorship, a deed  
25 that conveys an interest in the real property to a grantee BENEFICIARY  
26 designated by all OF the then surviving owners and that expressly states that  
27 the deed is ~~not to take effect until~~ EFFECTIVE ON the death of the last  
28 surviving owner transfers the interest to the designated grantee beneficiary  
29 effective on the death of the last surviving owner. If a beneficiary deed  
30 is executed by ~~only one or~~ fewer than all of the owners of real property  
31 owned as joint tenants with right of survivorship or community property with  
32 right of survivorship, the beneficiary deed is valid if the last surviving  
33 owner is one of the persons who executes the beneficiary deed. If the last  
34 surviving owner did not execute the beneficiary deed, THE TRANSFER SHALL  
35 LAPSE AND the deed is ~~invalid~~ VOID. AN ESTATE IN JOINT TENANCY WITH RIGHT  
36 OF SURVIVORSHIP OR COMMUNITY PROPERTY WITH RIGHT OF SURVIVORSHIP IS NOT  
37 AFFECTED BY THE EXECUTION OF A BENEFICIARY DEED THAT IS EXECUTED BY FEWER  
38 THAN ALL OF THE OWNERS OF THE REAL PROPERTY AND THE RIGHTS OF A SURVIVING  
39 JOINT TENANT WITH RIGHT OF SURVIVORSHIP OR A SURVIVING SPOUSE IN COMMUNITY  
40 PROPERTY WITH RIGHT OF SURVIVORSHIP SHALL PREVAIL OVER A GRANTEE BENEFICIARY  
41 NAMED IN A BENEFICIARY DEED.

42 ~~C.~~ E. A beneficiary deed is valid only if the deed is executed and  
43 recorded as provided by law in the office of the county recorder of the  
44 county in which the property is located before the death of the owner or the  
45 last surviving owner. A beneficiary deed may be used to transfer an interest

1 in real property to THE TRUSTEE OF a trust estate even if the trust is  
2 revocable.

3 ~~D.~~ F. A beneficiary deed may be revoked at any time by the owner or,  
4 if there is more than one owner, by any of the owners who executed the  
5 beneficiary deed. To be effective, the revocation must be executed and  
6 recorded as provided by law in the office of the county recorder of the  
7 county in which the real property is located before the death of the owner  
8 who executes the revocation. If the REAL PROPERTY IS OWNED AS JOINT TENANTS  
9 WITH RIGHT OF SURVIVORSHIP OR COMMUNITY PROPERTY WITH RIGHT OF SURVIVORSHIP  
10 AND IF THE revocation is not executed by all the owners, the revocation is  
11 not effective unless executed by the last surviving owner.

12 ~~E.~~ G. If an owner executes and records more than one beneficiary deed  
13 concerning the same real property, the last beneficiary deed THAT IS recorded  
14 BEFORE THE OWNER'S DEATH is the effective beneficiary deed.

15 ~~F.~~ H. This section does not prohibit other methods of conveying  
16 property that are permitted by law and that have the effect of postponing  
17 enjoyment of an interest in real property until the death of the owner. This  
18 section does not invalidate any deed otherwise effective by law to convey  
19 title to the interests and estates provided in the deed that is not recorded  
20 until after the death of the owner.

21 I. THE SIGNATURE, CONSENT OR AGREEMENT OF OR NOTICE TO A GRANTEE  
22 BENEFICIARY OF A BENEFICIARY DEED IS NOT REQUIRED FOR ANY PURPOSE DURING THE  
23 LIFETIME OF THE OWNER.

24 J. A BENEFICIARY DEED THAT IS EXECUTED, ACKNOWLEDGED AND RECORDED IN  
25 ACCORDANCE WITH THIS SECTION IS NOT REVOKED BY THE PROVISIONS OF A WILL.

26 ~~G.~~ K. A beneficiary deed is sufficient if it complies with other  
27 applicable laws and if it is in substantially the following form:

28 Beneficiary Deed

29 I (we) \_\_\_\_\_ (OWNER) hereby convey to  
30 \_\_\_\_\_ (grantee BENEFICIARY) effective on my  
31 (our) death the following described real property:  
32 (Legal description)  
33  
34  
35

36 \_\_\_\_\_  
(Signature of grantor(s))

37 (acknowledgment).

38 ~~H.~~ L. The instrument of revocation shall be sufficient if it complies  
39 with other applicable laws and is in substantially the following form:

40 Revocation of Beneficiary Deed

41 The undersigned hereby revokes the beneficiary deed  
42 recorded on \_\_\_\_\_ (date), in docket or book \_\_\_\_\_  
43 at page \_\_\_\_\_, or instrument number \_\_\_\_\_, records of  
44 \_\_\_\_\_ county, Arizona.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature

(acknowledgment).

~~f.~~ M. For the purposes of this section,:

1. "Beneficiary deed" means a deed authorized under this section.

2. "OWNER" MEANS ANY PERSON WHO EXECUTES A BENEFICIARY DEED AS  
PROVIDED IN THIS SECTION.

APPROVED BY THE GOVERNOR APRIL 8, 2002.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 8, 2002.

Passed the House February 12, 2002,

by the following vote: 49 Ayes,

10 Nays, 1 Not Voting

[Signature]  
Speaker of the House

Norman L. Fyore  
Chief Clerk of the House

Passed the Senate April 2, 2002,

by the following vote: 26 Ayes,

0 Nays, 4 Not Voting

[Signature]  
President of the Senate

Charmian Billington  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

3 day of April, 2002,

at 3:46 o'clock P M.

[Signature]  
Secretary to the Governor

Approved this 8<sup>th</sup> day of

April, 2002,

at 10:46 o'clock A M.

[Signature]  
Governor of Arizona

H.B. 2334

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 8<sup>th</sup> day of April, 2002,

at 4:44 o'clock P M.

[Signature]  
Secretary of State